

House File 569 - Introduced

HOUSE FILE 569

BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HSB 112)

A BILL FOR

1 An Act relating to personal degradation of a dependent adult
2 as a form of dependent adult abuse by a caretaker regulated
3 by the department of human services, and making penalties
4 applicable.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 235B.2, subsection 5, paragraph a, Code
2 2019, is amended by adding the following new subparagraph:

3 NEW SUBPARAGRAPH. (4) (a) Personal degradation of a
4 dependent adult by a caretaker.

5 (b) "*Personal degradation*" means a willful act or statement
6 by a caretaker intended to shame, degrade, humiliate, or
7 otherwise harm the personal dignity of a dependent adult, or
8 where the caretaker knew or reasonably should have known the
9 act or statement would cause shame, degradation, humiliation,
10 or harm to the personal dignity of a reasonable person.
11 "*Personal degradation*" includes the taking, transmission,
12 or display of an electronic image of a dependent adult by a
13 caretaker, where the caretaker's actions constitute a willful
14 act or statement intended to shame, degrade, humiliate, or
15 otherwise harm the personal dignity of the dependent adult,
16 or where the caretaker knew or reasonably should have known
17 the act would cause shame, degradation, humiliation, or harm
18 to the personal dignity of a reasonable person. "*Personal*
19 *degradation*" does not include the taking, transmission, or
20 display of an electronic image of a dependent adult for the
21 purpose of reporting dependent adult abuse to law enforcement,
22 the department, or other regulatory agency that oversees
23 caretakers or enforces abuse or neglect provisions, or for the
24 purpose of treatment or diagnosis or as part of an ongoing
25 investigation. "*Personal degradation*" also does not include
26 the taking, transmission, or display of an electronic image by
27 a caretaker who takes, transmits, or displays the electronic
28 image in accordance with the confidentiality policy and release
29 of information or consent policies of a contractor, employer,
30 or facility or program not covered under section 235E.1,
31 subsection 5, paragraph "a", subparagraph (3).

32 Sec. 2. Section 235B.3, subsection 1, paragraph c, Code
33 2019, is amended to read as follows:

34 c. A report of dependent adult abuse that meets the
35 definition of dependent adult abuse under section 235B.2,

1 subsection 5, paragraph "a", subparagraph (1), subparagraph
 2 division (a) or (d), or section 235B.2, subsection 5, paragraph
 3 "a", subparagraph (4), which the department determines is
 4 minor, isolated, and unlikely to reoccur shall be collected
 5 and maintained by the department as an assessment only for
 6 a five-year period and shall not be included in the central
 7 registry and shall not be considered to be founded dependent
 8 adult abuse. However, a subsequent report of dependent adult
 9 abuse that meets the definition of dependent adult abuse under
 10 section 235B.2, subsection 5, paragraph "a", subparagraph
 11 (1), subparagraph division (a) or (d), or section 235B.2,
 12 subsection 5, paragraph "a", subparagraph (4), that occurs
 13 within the five-year period and that is committed by the
 14 caretaker responsible for the act or omission which was the
 15 subject of the previous report of dependent adult abuse which
 16 the department determined was minor, isolated, and unlikely to
 17 reoccur shall not be considered minor, isolated, and unlikely
 18 to reoccur.

EXPLANATION

20 The inclusion of this explanation does not constitute agreement with
 21 the explanation's substance by the members of the general assembly.

22 This bill relates to personal degradation as a form
 23 of dependent adult abuse by a caretaker regulated by the
 24 department of human services (DHS) pursuant to Code chapter
 25 235B (dependent adult abuse).

26 The bill defines "personal degradation" as a willful act or
 27 statement by a caretaker intended to shame, degrade, humiliate,
 28 or otherwise harm a dependent adult's personal dignity, or a
 29 willful act or statement by a caretaker where the caretaker
 30 knew or reasonably should have known the act or statement would
 31 shame, degrade, humiliate, or otherwise harm the dependent
 32 adult's personal dignity. "Personal degradation" includes
 33 the taking, transmission, or display of an electronic image
 34 of a dependent adult by a caretaker, where the caretaker's
 35 actions constitute a willful act or statement intended to

1 shame, degrade, humiliate, or otherwise harm the personal
2 dignity of the dependent adult. The bill creates an exception
3 to the definition for electronic images of a dependent adult
4 that are taken, transmitted, or displayed for the purpose of
5 reporting dependent adult abuse or for the purpose of treatment
6 or diagnosis or as part of an ongoing investigation. The bill
7 provides "personal degradation" does not include the taking,
8 transmission, or display of an electronic image by a caretaker
9 who takes, transmits, or displays the electronic image in
10 accordance with the confidentiality policy and release of
11 information or consent policies of a contractor, employer,
12 or facility or program not regulated by the department
13 of inspections and appeals pursuant to Code chapter 235E
14 (dependent adult abuse in facilities and programs).

15 For purposes of Code chapter 235B, a caretaker is defined
16 as a related or nonrelated person who has the responsibility
17 for the protection, care, or custody of a dependent adult as a
18 result of assuming the responsibility voluntarily, by contract,
19 through employment, or by order of the court.

20 A caretaker who commits the crime of dependent adult abuse
21 by personal degradation is guilty of a serious misdemeanor.
22 A serious misdemeanor is punishable by confinement for no
23 more than one year and a fine of at least \$315 but not more
24 than \$1,875. A caretaker who is the subject of a report of
25 dependent adult abuse may be placed on the dependent adult
26 abuse registry.

27 Under current law, a report of dependent adult abuse
28 involving physical injury, unreasonable confinement or
29 punishment, assault, or neglect by a caretaker which DHS
30 determines is minor, isolated, and unlikely to reoccur is
31 collected and maintained by DHS as an assessment only for a
32 five-year period, is not included in the central dependent
33 adult abuse registry, and is not considered founded dependent
34 adult abuse. A subsequent report of dependent adult abuse
35 involving physical injury, unreasonable confinement or

1 punishment, assault, or neglect that occurs within that same
2 five-year period by the same caretaker who was the subject of
3 the previous report may be considered minor, isolated, and
4 unlikely to reoccur depending on the circumstances.

5 The bill expands current law to provide that a report of
6 dependent adult abuse involving personal degradation by a
7 caretaker which DHS determines is minor, isolated, and unlikely
8 to reoccur shall be collected and maintained by DHS as an
9 assessment only for a five-year period, shall not be included
10 in the central dependent adult abuse registry, and shall not be
11 considered founded dependent adult abuse. A subsequent report
12 of dependent adult abuse involving personal degradation that
13 occurs within that same five-year period by the same caretaker
14 who was the subject of the previous report may be considered
15 minor, isolated, and unlikely to reoccur depending on the
16 circumstances.